

AMENDED IN SENATE APRIL 13, 2009

**SENATE BILL**

**No. 204**

**Introduced by Senators Benoit, Huff, and Runner**  
*(Coauthor: Assembly Member Hagman)*

February 23, 2009

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~~An act to amend Sections 17202.1, 17207, 17209, 17323, and 17405 of, and to repeal Section 17210 of, the Financial Code, relating to escrow agents. An act to amend Sections 17405, 17600, 50123, and 50124 of, and to amend and repeal Section 17207 of, the Financial Code, relating to financial transactions.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 204, as amended, Benoit. ~~Escrow agents. Financial transactions: regulation.~~

Existing law provides for the licensing and regulation of escrow agents by the Commissioner of Corporations. Existing law, until January 1, 2010, requires each escrow agent to pay an annual license fee of up to \$2,800 for each office or location and authorizes the commissioner to additionally levy a special assessment, *which is required to be paid by the escrow agent within 30 days of receipt of notification by the commissioner*, for each office or location in certain circumstances. Commencing January 1, 2010, existing law instead requires each escrow agent to pay to the commissioner the agent's pro rata share of the commissioner's annual administrative costs and expenses, as specified.

~~This bill would delay the change in these fee requirements to January 1, 2016, and would, until that date, lower the maximum amount of the annual license fee to \$2,500 for each office or location.~~

~~Existing law requires that escrow agents maintain a specified tangible net worth, including certain liquid assets.~~

~~This bill would eliminate that requirement, and make related changes.~~

*This bill would repeal the provisions that would require an escrow agent, commencing January 1, 2010, to pay to the commissioner the agent's pro rata share of the commissioner's annual administrative costs and expenses. The bill would, instead, continue the requirement for an escrow agent to pay an annual license fee of up to \$2,800 for each office or location. The bill would authorize the special assessment that may be levied by the commissioner to be in an amount of up to \$1,000. The bill would require an escrow agent to pay the special assessment within 60 days of notification by the commissioner. The bill would require the commissioner to submit a budget and program justification and information to the Escrow Law Advisory Committee prior to providing notice of a special assessment to escrow agents.*

~~Existing law requires the commissioner to examine an escrow agent as often as the commissioner deems necessary, based on factors designated by the commissioner by rule or order, but not less than every 48 months. Existing law also authorizes the commissioner to conduct examinations, as specified, of a new licensee within one year and within 2 years of the issuance of a license.~~

~~This bill would authorize the commissioner to examine an escrow agent only for cause and would require the commissioner to conduct the examinations, as specified, of new licensees or upon change of ownership.~~

*Existing law provides that the license of an escrow agent remains in effect until surrendered, revoked, or suspended. Existing law sets forth the procedure for the surrender of the license of an escrow agent, and requires a surrendering licensee to, among other things, notify the commissioner in writing of surrender, tender his or her license and all other indicia of licensure to the commissioner, and, within 105 days of the written notification, submit a closing audit to the commissioner, as specified. Existing law provides that a license is not surrendered until the commissioner has reviewed and accepted the closing audit, made a determination that there is no violation of law, and, in writing, accepted tender of the license.*

*This bill would delete the requirement that the commissioner make a determination that there is no violation of law, and instead require a determination that acceptance of a surrender is in the public interest.*

*Existing law, the California Residential Mortgage Lending Act, provides for the licensure and regulation of residential mortgage lenders and servicers by the Commissioner of Corporations. Existing law*

*provides that the license of a residential mortgage lender or servicer remains in effect until surrendered, revoked, or suspended. Existing law sets forth the procedure for the surrender of the license of a residential mortgage lender or servicer, and requires a surrendering licensee to, among other things, notify the commissioner in writing of surrender, tender his or her license and all other indicia of licensure to the commissioner, and file a plan for the withdrawal from regulated business that includes a timetable for the disposition of business and a closing audit, review, or, if agreed upon, a procedure performed by an independent certified public accountant as prescribed by rule or order of the commissioner. Existing law provides that a license is not surrendered until the commissioner has, in writing, accepted tender after review, made a finding on the withdrawal plan, and made a determination that there is no violation of law.*

*This bill would delete the provision that allows the licensee's withdrawal plan to include an agreed upon procedure performed by an independent certified public accountant, and instead provide that the withdrawal plan include any other document prescribed by rule or order of the commissioner, including a document that demonstrates that all custodial fund accounts have been properly transferred and closed. The bill would also delete the requirement that the commissioner make a determination that there is no violation of law, and instead require a determination that acceptance of a surrender is in the public interest.*

*Existing law, the California Residential Mortgage Lending Act, requires an application for licensure to be accompanied by an exhibit containing statements that the applicant agrees to take specified actions, including, but not limited to, agreeing to notify the commissioner, in writing, by certified mail, return receipt requested, prior to opening a branch office in this state or changing the business location or locations of the applicant, as specified.*

*This bill would require the application for licensure to include a statement that the applicant agrees to notify the commissioner prior to the closing of a business location.*

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 17207 of the Financial Code, as amended*  
2     *by Section 1 of Chapter 257 of the Statutes of 2005, is amended*  
3     *to read:*

4     17207. The commissioner shall charge and collect the following  
5     fees and assessments:

6     (a) For filing an application for an escrow agent's license, six  
7     hundred twenty-five dollars (\$625) for the first office or location  
8     and four hundred twenty-five dollars (\$425) for each additional  
9     office or location.

10    (b) For filing an application for a duplicate of an escrow agent's  
11    license lost, stolen, or destroyed, or for replacement, upon a  
12    satisfactory showing of the loss, theft, destruction, or surrender of  
13    certificate for replacement, two dollars (\$2).

14    (c) For investigation services in connection with each  
15    application, one hundred dollars (\$100), and for investigation  
16    services in connection with each additional office application, one  
17    hundred dollars (\$100).

18    (d) For holding a hearing in connection with the application, as  
19    set forth under Section 17209.2, the actual costs experienced in  
20    each particular instance.

21    (e) (1) Each escrow agent shall pay to the commissioner for  
22    the support of this division for the ensuing year an annual license  
23    fee not to exceed two thousand eight hundred dollars (\$2,800) for  
24    each office or location.

25    (2) On or before May 30 in each year, the commissioner shall  
26    notify each escrow agent by mail of the amount of the annual  
27    license fee levied against it, and that the payment of the invoice  
28    is payable by the escrow agent within 30 days after receipt of  
29    notification by the commissioner.

30    (3) If payment is not made within 30 days, the commissioner  
31    may assess and collect a penalty, in addition to the annual license  
32    fee, of 10 percent of the fee for each month or part of a month that  
33    the payment is delayed or withheld.

34    (4) If an escrow agent fails to pay the amount due on or before  
35    the June 30 following the day upon which payment is due, the  
36    commissioner may by order summarily suspend or revoke the  
37    certificate issued to the company.

(5) If, after an order is made pursuant to paragraph (4), a request for a hearing is filed in writing and a hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date. During any period when its certificate is revoked or suspended, a company shall not conduct business pursuant to this division, except as may be permitted by order of the commissioner. However, the revocation, suspension, or surrender of a certificate shall not affect the powers of the commissioner as provided in this division.

(f) Fifty dollars (\$50) for investigation services in connection with each application for qualification of any person under Section 17200.8, other than investigation services under subdivision (c) of this section.

(g) A fee not to exceed twenty-five dollars (\$25) for the filing of a notice or report required by rules adopted pursuant to subdivision (a) or Section 17203.1.

(h) (1) If costs and expenses associated with the enforcement of this division, including overhead, are or will be incurred by the commissioner during the year for which the annual license fee is levied, and that will or could result in the commissioner's incurring of costs and expenses, including overhead, in excess of the costs and expenses, including overhead, budgeted for expenditure for the year in which the annual license fee is levied, then the commissioner may levy a special assessment on each escrow agent for each office or location in an amount estimated to pay for the actual costs and expenses associated with the enforcement of this division, including overhead, in an amount not to exceed ~~five hundred dollars (\$500)~~ *one thousand dollars (\$1,000)* for each office or location. The commissioner shall notify each escrow agent by mail of the amount of the special assessment levied against it, and that payment of the special assessment is payable by the escrow agent within ~~30~~ 60 days of receipt of notification by the commissioner. The funds received from the special assessment shall be deposited into the State Corporations Fund and shall be used only for the purposes for which the special assessment is made.

(2) If payment is not made within ~~30~~ 60 days, the commissioner may assess and collect a penalty, in addition to the special assessment, of 10 percent of the special assessment for each month or part of a month that the payment is delayed or withheld. If an

1 escrow agent fails to pay the special assessment on or before 30  
2 60 days following the day upon which payment is due, the  
3 commissioner may by order summarily suspend or revoke the  
4 certificate issued to the company. If an order is made under this  
5 subdivision, the provisions of paragraph (5) of subdivision (e) of  
6 this section shall apply.

7 (3) If the amount collected pursuant to this subdivision exceeds  
8 the actual costs and expenses, including overhead, incurred in the  
9 administration and enforcement of this division and any deficit  
10 incurred, the excess shall be credited to each escrow agent on a  
11 pro rata basis.

12 ~~(i) This section shall remain in effect only until January 1, 2010,~~  
13 ~~and as of that date is repealed, unless a later enacted statute, that~~  
14 ~~is enacted before January 1, 2010, deletes or extends that date.~~

15 *(4) Prior to notifying an escrow agent of a special assessment*  
16 *under this subdivision, the commissioner shall submit, as part of*  
17 *a regular meeting of the Escrow Law Advisory Committee created*  
18 *under this division, any budget and program justification and*  
19 *information for the current or prior budget years that would*  
20 *support the special assessment.*

21 *SEC. 2. Section 17207 of the Financial Code, as amended by*  
22 *Section 2 of Chapter 257 of the Statutes of 2005, is repealed.*

23 ~~17207. The commissioner shall charge and collect the following~~  
24 ~~fees and assessments:~~

25 ~~(a) For filing an application for an escrow agent's license, six~~  
26 ~~hundred twenty-five dollars (\$625) for the first office or location~~  
27 ~~and four hundred twenty-five dollars (\$425) for each additional~~  
28 ~~office or location.~~

29 ~~(b) For filing an application for a duplicate of an escrow agent's~~  
30 ~~license lost, stolen, or destroyed, or for replacement, upon a~~  
31 ~~satisfactory showing of the loss, theft, destruction, or surrender of~~  
32 ~~certificate for replacement, two dollars (\$2).~~

33 ~~(c) For investigation services in connection with each~~  
34 ~~application, one hundred dollars (\$100), and for investigation~~  
35 ~~services in connection with each additional office application, one~~  
36 ~~hundred dollars (\$100).~~

37 ~~(d) For holding a hearing in connection with the application, as~~  
38 ~~set forth under Section 17209.2, the actual costs experienced in~~  
39 ~~each particular instance.~~

1     ~~(e) (1) Each escrow agent shall pay to the commissioner its pro~~  
2     ~~rata share of all costs and expenses reasonably incurred in the~~  
3     ~~administration of this division, as estimated by the commissioner~~  
4     ~~for the ensuing year, and of any deficit actually incurred or~~  
5     ~~anticipated in the administration of this division in the year in~~  
6     ~~which the assessment is made. Commencing with the assessment~~  
7     ~~for fiscal year 2010-11, the assessment shall not increase by more~~  
8     ~~than 25 percent over the amount assessed in the prior year. The~~  
9     ~~pro rata share shall be the proportion which a licensee's gross~~  
10    ~~income from escrow operations bears to the aggregate gross income~~  
11    ~~from escrow operations of all licensees as compiled by the~~  
12    ~~commissioner. The pro rata share shall not include the costs of any~~  
13    ~~examinations provided for in Section 17405.1, unless they cannot~~  
14    ~~be collected from the company examined. If the pro rata assessment~~  
15    ~~collected pursuant to this paragraph exceeds the actual costs and~~  
16    ~~expenses incurred in the administration of this division and any~~  
17    ~~deficit incurred, the excess shall be credited to each escrow agent~~  
18    ~~on a pro rata basis.~~

19    ~~(2) On or before May 30 in each year, the commissioner shall~~  
20    ~~notify each escrow agent by mail of the amount assessed and levied~~  
21    ~~against it, and that the payment of any invoice for assessments of~~  
22    ~~the commissioner is payable by the escrow agent in three~~  
23    ~~installments with the first installment payable within 20 days after~~  
24    ~~receipt of notification by the commissioner and the second and~~  
25    ~~third installments payable within 20 days of August 31 and~~  
26    ~~November 30, respectively, in each year. The first installment~~  
27    ~~payment shall be 50 percent of the amount assessed, and the second~~  
28    ~~and third installment payments shall each be 25 percent of the~~  
29    ~~amount assessed.~~

30    ~~(A) If the first installment payment is not made within 20 days,~~  
31    ~~the commissioner may assess and collect a penalty, in addition to~~  
32    ~~the assessment, of 10 percent of the assessment for each month or~~  
33    ~~part of a month that the payment is delayed or withheld.~~

34    ~~(B) If the second installment payment is not made within 20~~  
35    ~~days of August 31 in each year, the commissioner may assess and~~  
36    ~~collect a penalty, in addition to the assessment, of 10 percent of~~  
37    ~~the assessment for each month or part of a month that the payment~~  
38    ~~is delayed or withheld.~~

39    ~~(C) If the third installment payment is not made within 20 days~~  
40    ~~of November 30 in each year, the commissioner may assess and~~

1 collect a penalty, in addition to the assessment, of 10 percent of  
2 the assessment for each month or part of a month that the payment  
3 is delayed or withheld.

4 (3) In the levying and collection of the assessment, an escrow  
5 agent shall not be assessed for, nor be permitted to pay less than,  
6 three hundred fifty dollars (\$350) per year, per location.

7 (4) (A) If an escrow agent fails to pay the first assessment on  
8 or before the June 30 following the day upon which payment is  
9 due, the commissioner may by order summarily suspend or revoke  
10 the certificate issued to the company.

11 (B) If an escrow agent fails to pay the second installment  
12 payment on or before September 30 in each year, the commissioner  
13 may by order summarily suspend or revoke the certificate issued  
14 to the company.

15 (C) If an escrow agent fails to pay the third installment payment  
16 on or before December 31 in each year, the commissioner may by  
17 order summarily suspend or revoke the certificate issued to the  
18 company.

19 (D) If, after this order is made, a request for a hearing is filed  
20 in writing and a hearing is not held within 60 days thereafter, the  
21 order is deemed rescinded as of its effective date. During any  
22 period when its certificate is revoked or suspended, a company  
23 shall not conduct business pursuant to this division, except as may  
24 be permitted by order of the commissioner. However, the  
25 revocation, suspension, or surrender of a certificate shall not affect  
26 the powers of the commissioner as provided in this division.

27 (f) Fifty dollars (\$50) for investigation services in connection  
28 with each application for qualification of any person under Section  
29 17200.8, other than investigation services under subdivision (c)  
30 of this section.

31 (g) A fee not to exceed twenty-five dollars (\$25) for the filing  
32 of a notice or report required by rules adopted pursuant to  
33 subdivision (a) or Section 17203.1.

34 (h) This section shall become operative January 1, 2010.

35 SEC. 3. Section 17405 of the Financial Code is amended to  
36 read:

37 17405. (a) The business, accounts and records of every person  
38 performing as an escrow agent, whether required to be licensed  
39 under this division or not, are subject to inspection and examination  
40 by the commissioner at any time without prior notice. The



1 provisions of this section shall not apply to persons specified in  
2 Section 17006.

3 (b) Any person subject to this division shall, upon request,  
4 exhibit and allow inspection and copying of any books and records  
5 by the commissioner or his or her authorized representative.

6 (c) (1) The commissioner shall conduct an examination of each  
7 licensed escrow agent as described in subdivision (a) as often as  
8 the commissioner deems necessary and appropriate, but not less  
9 than once every 48 months.

10 (2) The examination shall be conducted for the 12-month period  
11 immediately preceding the date that the examination is commenced  
12 unless the commissioner finds, based on information uncovered  
13 in the examination or in the most recent independent audit report,  
14 that the examination should be extended beyond the 12-month  
15 period.

16 (3) In determining how often an examination shall be conducted,  
17 the commissioner may consider each licensed escrow agent's  
18 compliance with the requirements set forth in this division and  
19 other factors the commissioner may by rule or order designate.

20 (4) This subdivision shall apply only to examinations  
21 commenced after the effective date established by the rule or order  
22 of the commissioner for the factors described in paragraph (3).

23 (d) Notwithstanding subdivision (c), the commissioner ~~may~~  
24 *shall* conduct an indoctrination or preliminary examination, or  
25 both, under this section of any new licensee *or of a change of*  
26 *ownership* within one year of the issuance of the license under this  
27 division, and an examination described in subdivision (a) within  
28 two years of the issuance of the license *or of the change of*  
29 *ownership* under this division.

30 *SEC. 4. Section 17600 of the Financial Code is amended to*  
31 *read:*

32 17600. (a) An escrow agent's license remains in effect until  
33 surrendered, revoked, or suspended.

34 (b) A licensee that ceases to engage in the business regulated  
35 by this division and desires to no longer be licensed shall notify  
36 the commissioner in writing and, at that time, tender the license  
37 and all other indicia of licensure to the commissioner. Within 105  
38 days of the written notice to the commissioner, the licensee shall  
39 submit to the commissioner, at its own expense, a closing audit  
40 report as of the date the license is tendered to the commissioner

1 for surrender, or for another period as the commissioner may  
2 specify, to be performed by an independent certified public  
3 accountant. The closing audit shall include, but not be limited to,  
4 information required by the commissioner, a bank reconciliation  
5 of the trust account, and a verified statement from a certified public  
6 accountant confirming lawful disbursement of funds. A license is  
7 not surrendered until the commissioner has reviewed and accepted  
8 the closing audit report, a determination has been made by the  
9 commissioner that ~~there is no violation of this law~~ *acceptance of*  
10 *the surrender is in the public interest*, and tender of the license is  
11 accepted in writing by the commissioner.

12 SEC. 5. Section 50123 of the Financial Code is amended to  
13 read:

14 50123. (a) A license shall remain in effect until suspended,  
15 surrendered, or revoked.

16 (b) A licensee that ceases to engage in the business regulated  
17 by this division and desires to no longer be licensed shall inform  
18 the commissioner in writing and, at that time, surrender the license  
19 and all other indicia of licensure to the commissioner. The licensee  
20 shall file a plan for the withdrawal from regulated business, and  
21 the plan shall include a timetable for the disposition of the business.  
22 The plan shall also include a closing audit, review, or *any other*  
23 ~~agreed upon procedures performed by an independent certified~~  
24 ~~public accountant~~ *document* prescribed by rule or order of the  
25 commissioner, *including, but not limited to, any document or*  
26 *documents that demonstrate that all custodial fund accounts have*  
27 *been properly transferred and closed*. Upon receipt of the written  
28 notice and plan, the commissioner shall review the plan and, if  
29 satisfactory to the commissioner, shall accept the surrender of the  
30 license. A license is not surrendered until its tender is accepted in  
31 writing by the commissioner after a review, and a finding has been  
32 made on the licensee's plan required to be filed by this section,  
33 and a determination has been made that ~~there is no violation of~~  
34 ~~this law~~ *acceptance of the surrender is in the public interest*.

35 (c) A licensee may not surrender its license under this division  
36 and, under the authority of a real estate license, subsequently  
37 engage in residential mortgage lending or servicing activities that  
38 are subject to this division, unless the licensee has been licensed  
39 under this division for a period of five years or more.

1     *SEC. 6. Section 50124 of the Financial Code is amended to*  
2     *read:*

3     50124. (a) A license application must be accompanied by an  
4     exhibit containing statements that the applicant agrees to do the  
5     following:

6         (1) To maintain staff adequate to meet the requirements of this  
7         division, as prescribed by rule or order of the commissioner.

8         (2) To keep and maintain for 36 months from the date of final  
9         entry the business records and other information required by law  
10        or rules of the commissioner regarding any mortgage loan made  
11        or serviced in the course of the conduct of its business.

12        (3) To file with the commissioner any report required under law  
13        or by rule or order of the commissioner.

14        (4) To disburse funds in accordance with its agreements and to  
15        make a good faith and reasonable effort to effect closing in a timely  
16        manner.

17        (5) To account or deliver to a person any personal property such  
18        as money, funds, deposit, check, draft, mortgage, other document,  
19        or thing of value, that has come into its possession and is not its  
20        property, or that it is not in law or equity entitled to retain under  
21        the circumstances, at the time that has been agreed upon or is  
22        required by law, or, in the absence of a fixed time, upon demand  
23        of the person entitled to the accounting or delivery.

24        (6) To file with the commissioner an amendment to its  
25        application prior to any material change in the information  
26        contained in the application for licensure, including, without  
27        limitation, the plan of operation. The commissioner shall, within  
28        20 business days of receiving a completed amendment to the  
29        application, or within a longer time if agreed to by the licensee,  
30        issue an order approving or disapproving the effectiveness of the  
31        proposed amendment.

32        (7) To comply with the provisions of this division, and with any  
33        order or rule of the commissioner.

34        (8) To submit to periodic examination by the commissioner as  
35        required by this division.

36        (9) To advise the commissioner by amendment to its application  
37        of any material judgment filed against, or bankruptcy petition filed  
38        by, the licensee within five days of the filing.

39        (10) To notify the commissioner, in writing, by certified mail,  
40        return receipt requested, prior to opening a branch office in this

1 state, or changing *or closing* the business location or locations of  
2 the applicant or the branch offices of the applicant from which  
3 activities subject to this division are conducted.

4 (b) The exhibit also shall contain a space for the applicant to  
5 attest that the applicant:

6 (1) Has complied with all applicable state and federal tax return  
7 filing requirements for the past three years or has filed with the  
8 commissioner an accountant's or attorney's statement as to why  
9 no return was filed.

10 (2) Has not committed a crime against the laws of any state or  
11 the United States, involving moral turpitude, misrepresentation,  
12 fraudulent or dishonest dealing, or fraud, and has disclosed to the  
13 commissioner any final judgment entered against it in a civil action  
14 upon grounds or allegations of fraud, misrepresentation, or deceit.

15 (3) Has not engaged in conduct that would be cause for denial  
16 of a license.

17 (4) Is not insolvent.

18 (5) Has acted with due care and competence in performing any  
19 act for which it is required to hold a license under this division.

20 (6) Any other matter as required by rule of the commissioner.

21 ~~SECTION 1. Section 17202.1 of the Financial Code is amended~~  
22 ~~to read:~~

23 ~~17202.1. An applicant for an escrow agent's license or a~~  
24 ~~licensee may, in lieu of and subject to the same conditions as the~~  
25 ~~bond required by Section 17202, deposit with the commissioner~~  
26 ~~a cash bond in the sum specified in Section 17202. Evidence of~~  
27 ~~the cash bond shall be a deposit in the amount specified in Section~~  
28 ~~17202 in a bank or investment certificates of industrial loan~~  
29 ~~companies, authorized to do business in this state and insured by~~  
30 ~~the Federal Deposit Insurance Corporation, or an investment~~  
31 ~~certificate or share account in the amount specified in Section~~  
32 ~~17202 issued by a savings and loan association doing business in~~  
33 ~~this state and insured by the Federal Savings and Loan Insurance~~  
34 ~~Corporation. Those deposits, certificates, or accounts shall be~~  
35 ~~assigned to and accepted and maintained by the commissioner,~~  
36 ~~upon those terms as the commissioner may prescribe, until released~~  
37 ~~by the commissioner.~~

38 ~~SEC. 2. Section 17207 of the Financial Code, as amended by~~  
39 ~~Section 1 of Chapter 257 of the Statutes of 2005, is amended to~~  
40 ~~read:~~

1     ~~17207. The commissioner shall charge and collect the following~~  
2     ~~fees and assessments:~~

3     ~~(a) For filing an application for an escrow agent's license, six~~  
4     ~~hundred twenty-five dollars (\$625) for the first office or location~~  
5     ~~and four hundred twenty-five dollars (\$425) for each additional~~  
6     ~~office or location.~~

7     ~~(b) For filing an application for a duplicate of an escrow agent's~~  
8     ~~license lost, stolen, or destroyed, or for replacement, upon a~~  
9     ~~satisfactory showing of the loss, theft, destruction, or surrender of~~  
10    ~~certificate for replacement, two dollars (\$2).~~

11    ~~(c) For investigation services in connection with each~~  
12    ~~application, one hundred dollars (\$100), and for investigation~~  
13    ~~services in connection with each additional office application, one~~  
14    ~~hundred dollars (\$100).~~

15    ~~(d) For holding a hearing in connection with the application, as~~  
16    ~~set forth under Section 17209.2, the actual costs experienced in~~  
17    ~~each particular instance.~~

18    ~~(e) (1) Each escrow agent shall pay to the commissioner for~~  
19    ~~the support of this division for the ensuing year an annual license~~  
20    ~~fee not to exceed two thousand five hundred dollars (\$2,500) for~~  
21    ~~each office or location.~~

22    ~~(2) On or before May 30 in each year, the commissioner shall~~  
23    ~~notify each escrow agent by mail of the amount of the annual~~  
24    ~~license fee levied against it, and that the payment of the invoice~~  
25    ~~is payable by the escrow agent within 30 days after receipt of~~  
26    ~~notification by the commissioner.~~

27    ~~(3) If payment is not made within 30 days, the commissioner~~  
28    ~~may assess and collect a penalty, in addition to the annual license~~  
29    ~~fee, of 10 percent of the fee for each month or part of a month that~~  
30    ~~the payment is delayed or withheld.~~

31    ~~(4) If an escrow agent fails to pay the amount due on or before~~  
32    ~~the June 30 following the day upon which payment is due, the~~  
33    ~~commissioner may by order summarily suspend or revoke the~~  
34    ~~certificate issued to the company.~~

35    ~~(5) If, after an order is made pursuant to paragraph (4), a request~~  
36    ~~for a hearing is filed in writing and a hearing is not held within 60~~  
37    ~~days thereafter, the order is deemed rescinded as of its effective~~  
38    ~~date. During any period when its certificate is revoked or~~  
39    ~~suspended, a company shall not conduct business pursuant to this~~  
40    ~~division, except as may be permitted by order of the commissioner.~~

1 However, the revocation, suspension, or surrender of a certificate  
2 shall not affect the powers of the commissioner as provided in this  
3 division.

4 (f) Fifty dollars (\$50) for investigation services in connection  
5 with each application for qualification of any person under Section  
6 17200.8, other than investigation services under subdivision (c)  
7 of this section.

8 (g) A fee not to exceed twenty-five dollars (\$25) for the filing  
9 of a notice or report required by rules adopted pursuant to  
10 subdivision (a) or Section 17203.1.

11 (h) (1) If costs and expenses associated with the enforcement  
12 of this division, including overhead, are or will be incurred by the  
13 commissioner during the year for which the annual license fee is  
14 levied, and that will or could result in the commissioner's incurring  
15 of costs and expenses, including overhead, in excess of the costs  
16 and expenses, including overhead, budgeted for expenditure for  
17 the year in which the annual license fee is levied, then the  
18 commissioner may levy a special assessment on each escrow agent  
19 for each office or location in an amount estimated to pay for the  
20 actual costs and expenses associated with the enforcement of this  
21 division, including overhead, in an amount not to exceed five  
22 hundred dollars (\$500) for each office or location. The  
23 commissioner shall notify each escrow agent by mail of the amount  
24 of the special assessment levied against it, and that payment of the  
25 special assessment is payable by the escrow agent within 30 days  
26 of receipt of notification by the commissioner. The funds received  
27 from the special assessment shall be deposited into the State  
28 Corporations Fund and shall be used only for the purposes for  
29 which the special assessment is made.

30 (2) If payment is not made within 30 days, the commissioner  
31 may assess and collect a penalty, in addition to the special  
32 assessment, of 10 percent of the special assessment for each month  
33 or part of a month that the payment is delayed or withheld. If an  
34 escrow agent fails to pay the special assessment on or before 30  
35 days following the day upon which payment is due, the  
36 commissioner may by order summarily suspend or revoke the  
37 certificate issued to the company. If an order is made under this  
38 subdivision, the provisions of paragraph (5) of subdivision (e) of  
39 this section shall apply.

1     ~~(3) If the amount collected pursuant to this subdivision exceeds~~  
2     ~~the actual costs and expenses, including overhead, incurred in the~~  
3     ~~administration and enforcement of this division and any deficit~~  
4     ~~incurred, the excess shall be credited to each escrow agent on a~~  
5     ~~pro rata basis.~~

6     ~~(i) This section shall remain in effect only until January 1, 2016,~~  
7     ~~and as of that date is repealed, unless a later enacted statute, that~~  
8     ~~is enacted before January 1, 2010, deletes or extends that date.~~

9     ~~SEC. 3. Section 17207 of the Financial Code, as amended by~~  
10    ~~Section 2 of Chapter 257 of the Statutes of 2005, is amended to~~  
11    ~~read:~~

12    ~~17207. The commissioner shall charge and collect the following~~  
13    ~~fees and assessments:~~

14    ~~(a) For filing an application for an escrow agent's license, six~~  
15    ~~hundred twenty-five dollars (\$625) for the first office or location~~  
16    ~~and four hundred twenty-five dollars (\$425) for each additional~~  
17    ~~office or location.~~

18    ~~(b) For filing an application for a duplicate of an escrow agent's~~  
19    ~~license lost, stolen, or destroyed, or for replacement, upon a~~  
20    ~~satisfactory showing of the loss, theft, destruction, or surrender of~~  
21    ~~certificate for replacement, two dollars (\$2).~~

22    ~~(c) For investigation services in connection with each~~  
23    ~~application, one hundred dollars (\$100), and for investigation~~  
24    ~~services in connection with each additional office application, one~~  
25    ~~hundred dollars (\$100).~~

26    ~~(d) For holding a hearing in connection with the application, as~~  
27    ~~set forth under Section 17209.2, the actual costs experienced in~~  
28    ~~each particular instance.~~

29    ~~(e) (1) Each escrow agent shall pay to the commissioner its pro~~  
30    ~~rata share of all costs and expenses reasonably incurred in the~~  
31    ~~administration of this division, as estimated by the commissioner~~  
32    ~~for the ensuing year, and of any deficit actually incurred or~~  
33    ~~anticipated in the administration of this division in the year in~~  
34    ~~which the assessment is made. Commencing with the assessment~~  
35    ~~for fiscal year 2016-17, the assessment shall not increase by more~~  
36    ~~than 25 percent over the amount assessed in the prior year. The~~  
37    ~~pro rata share shall be the proportion which a licensee's gross~~  
38    ~~income from escrow operations bears to the aggregate gross income~~  
39    ~~from escrow operations of all licensees as compiled by the~~  
40    ~~commissioner. The pro rata share shall not include the costs of any~~

1 examinations provided for in Section 17405.1, unless they cannot  
2 be collected from the company examined. If the pro rata assessment  
3 collected pursuant to this paragraph exceeds the actual costs and  
4 expenses incurred in the administration of this division and any  
5 deficit incurred, the excess shall be credited to each escrow agent  
6 on a pro rata basis.

7 (2) ~~On or before May 30 in each year, the commissioner shall~~  
8 ~~notify each escrow agent by mail of the amount assessed and levied~~  
9 ~~against it, and that the payment of any invoice for assessments of~~  
10 ~~the commissioner is payable by the escrow agent in three~~  
11 ~~installments with the first installment payable within 20 days after~~  
12 ~~receipt of notification by the commissioner and the second and~~  
13 ~~third installments payable within 20 days of August 31 and~~  
14 ~~November 30, respectively, in each year. The first installment~~  
15 ~~payment shall be 50 percent of the amount assessed, and the second~~  
16 ~~and third installment payments shall each be 25 percent of the~~  
17 ~~amount assessed.~~

18 (A) ~~If the first installment payment is not made within 20 days,~~  
19 ~~the commissioner may assess and collect a penalty, in addition to~~  
20 ~~the assessment, of 10 percent of the assessment for each month or~~  
21 ~~part of a month that the payment is delayed or withheld.~~

22 (B) ~~If the second installment payment is not made within 20~~  
23 ~~days of August 31 in each year, the commissioner may assess and~~  
24 ~~collect a penalty, in addition to the assessment, of 10 percent of~~  
25 ~~the assessment for each month or part of a month that the payment~~  
26 ~~is delayed or withheld.~~

27 (C) ~~If the third installment payment is not made within 20 days~~  
28 ~~of November 30 in each year, the commissioner may assess and~~  
29 ~~collect a penalty, in addition to the assessment, of 10 percent of~~  
30 ~~the assessment for each month or part of a month that the payment~~  
31 ~~is delayed or withheld.~~

32 (3) ~~In the levying and collection of the assessment, an escrow~~  
33 ~~agent shall not be assessed for, nor be permitted to pay less than,~~  
34 ~~three hundred fifty dollars (\$350) per year, per location.~~

35 (4) (A) ~~If an escrow agent fails to pay the first assessment on~~  
36 ~~or before the June 30 following the day upon which payment is~~  
37 ~~due, the commissioner may by order summarily suspend or revoke~~  
38 ~~the certificate issued to the company.~~

39 (B) ~~If an escrow agent fails to pay the second installment~~  
40 ~~payment on or before September 30 in each year, the commissioner~~



1 may by order summarily suspend or revoke the certificate issued  
2 to the company.

3 (C) If an escrow agent fails to pay the third installment payment  
4 on or before December 31 in each year, the commissioner may by  
5 order summarily suspend or revoke the certificate issued to the  
6 company.

7 (D) If, after this order is made, a request for a hearing is filed  
8 in writing and a hearing is not held within 60 days thereafter, the  
9 order is deemed rescinded as of its effective date. During any  
10 period when its certificate is revoked or suspended, a company  
11 shall not conduct business pursuant to this division, except as may  
12 be permitted by order of the commissioner. However, the  
13 revocation, suspension, or surrender of a certificate shall not affect  
14 the powers of the commissioner as provided in this division.

15 (f) Fifty dollars (\$50) for investigation services in connection  
16 with each application for qualification of any person under Section  
17 17200.8, other than investigation services under subdivision (c)  
18 of this section.

19 (g) A fee not to exceed twenty-five dollars (\$25) for the filing  
20 of a notice or report required by rules adopted pursuant to  
21 subdivision (a) or Section 17203.1.

22 (h) This section shall become operative January 1, 2016.

23 SEC. 4. Section 17209 of the Financial Code is amended to  
24 read:

25 17209. An application for a license as an escrow agent shall  
26 be signed and verified by an authorized officer of the applicant,  
27 and that application shall be accompanied by a certified copy of  
28 the articles of incorporation and a copy of the bylaws of the  
29 proposed licensee. The application shall set forth:

30 (a) The names and addresses of the incorporators, directors, and  
31 officers.

32 (b) An itemized statement of the estimated receipts and  
33 expenditures of the proposed first year of operations.

34 (c) An audited financial statement.

35 (d) The name and address of the person, or persons, meeting  
36 the requirements of Section 17200.8, and a statement supporting  
37 those persons' qualifications.

38 (e) The type of business for which the license is requested.

39 (f) Any other matters the commissioner may require.

~~(g) An application for a license as an escrow agent filed with the commissioner shall also include a completed statement of identity and questionnaire, as prescribed by the commissioner, for all stockholders, directors, officers, trustees, managers, and other persons participating in the escrow business directly or indirectly compensated by the escrow agent (other than usual and customary employees who file pursuant to subdivision (d) of Section 17414.1 and Section 17419) and shall also include fingerprints and related information for those persons pursuant to subdivision (h). The commissioner shall notify the applicant in writing if any of the information received pursuant to this division shows that a person's employment, participation, or ownership interest would be in violation of Section 17414.1, and the escrow agent shall deny the person the employment or interest. If the application is not satisfactorily amended to remove the deficiency within six months of the first notice of deficiency, the application shall be summarily denied. Persons required to file the employment application pursuant to Section 17419 are not required to file the statement of identity and questionnaire described in this section.~~

~~(h) (1) The fingerprint images and related information shall be submitted by the commissioner to the Department of Justice, in a manner established by the Department of Justice, for the purposes of obtaining information as to the existence and content of a record of state or federal convictions, state or federal arrests, and information as to the existence of and content of a record of state or federal arrests for which the Department of Justice establishes that the person is free on bail or on his or her own recognizance pending trial or appeal.~~

~~(2) Upon receipt, the Department of Justice shall forward to the Federal Bureau of Investigation requests for federal summary criminal history information received from the commissioner pursuant to this section. The Department of Justice shall review the information returned from the Federal Bureau of Investigation and compile and disseminate a response to the commissioner pursuant to subdivision (p) of Section 11105 of the Penal Code.~~

~~(3) The commissioner shall request from the Department of Justice subsequent arrest notification service as provided pursuant to Section 11105.2 of the Penal Code.~~

1     ~~(4) The Department of Justice shall charge a fee sufficient to~~  
2 ~~cover the costs of processing the requests pursuant to this~~  
3 ~~subdivision.~~

4     ~~SEC. 5. Section 17210 of the Financial Code is repealed.~~

5     ~~SEC. 6. Section 17323 of the Financial Code is amended to~~  
6 ~~read:~~

7     ~~17323. (a) If any member fails to pay an assessment when~~  
8 ~~due, Fidelity Corporation shall by written demand addressed to~~  
9 ~~the member request the payment of the assessment within 30 days~~  
10 ~~of the demand letter. If the member fails to pay an assessment, the~~  
11 ~~commissioner may issue an order pursuant to subdivision (b).~~

12     ~~(b) If a member fails to pay the assessment, or any applicable~~  
13 ~~late fee, the commissioner may by order summarily suspend the~~  
14 ~~license issued to the company. If after the order is made, a request~~  
15 ~~for a hearing is filed in writing and a hearing is not held within 60~~  
16 ~~days thereafter, the order is deemed rescinded as of its effective~~  
17 ~~date. During any period when its license is suspended, a company~~  
18 ~~shall not conduct business pursuant to this division, except as may~~  
19 ~~be permitted by order of the commissioner. However, the~~  
20 ~~suspension of a license shall not affect the powers of the~~  
21 ~~commissioner as provided in this division.~~

22     ~~(c) Fidelity Corporation may bring an action at law or in equity~~  
23 ~~against the member to recover any assessment or fees.~~

24     ~~(d) Fidelity Corporation may be awarded costs and reasonable~~  
25 ~~attorney's fees, if it prevails in any action against a member, or~~  
26 ~~against a third party, except the commissioner, to enforce a claim~~  
27 ~~against the bond or other security posted by the member pursuant~~  
28 ~~to Section 17202, or in any action against a member pursuant to~~  
29 ~~subdivision (c). Those costs and attorney's fees may be awarded~~  
30 ~~as an item of costs, as provided for in paragraph (10) of subdivision~~  
31 ~~(a) and paragraph (5) of subdivision (c) of Section 1033.5 of the~~  
32 ~~Code of Civil Procedure, provided that the payment of the costs~~  
33 ~~and attorney's fees will not cause the member to be in violation~~  
34 ~~of Section 17202 or 17202.1.~~

35     ~~SEC. 7. Section 17405 of the Financial Code is amended to~~  
36 ~~read:~~

37     ~~17405. (a) The business, accounts and records of every person~~  
38 ~~performing as an escrow agent, whether required to be licensed~~  
39 ~~under this division or not, are subject to inspection and examination~~  
40 ~~by the commissioner at any time without prior notice. The~~

1 provisions of this section shall not apply to persons specified in  
2 Section 17006.

3 (b) Any person subject to this division shall, upon request,  
4 exhibit and allow inspection and copying of any books and records  
5 by the commissioner or his or her authorized representative.

6 (e) (1) The commissioner may conduct an examination of each  
7 licensed escrow agent as described in subdivision (a) only for  
8 cause.

9 (2) The examination shall be conducted for the 12-month period  
10 immediately preceding the date that the examination is commenced  
11 unless the commissioner finds, based on information uncovered  
12 in the examination or in the most recent independent audit report,  
13 that the examination should be extended beyond the 12-month  
14 period.

15 (3) In determining whether an examination shall be conducted  
16 for cause, the commissioner may consider each licensed escrow  
17 agent's compliance with the requirements set forth in this division  
18 and other factors the commissioner may by rule or order designate.

19 (4) This subdivision shall apply only to examinations  
20 commenced after the effective date established by the rule or order  
21 of the commissioner for the factors described in paragraph (3).

22 (d) Notwithstanding subdivision (e), the commissioner shall  
23 conduct an indoctrination or preliminary examination, or both,  
24 under this section of any new licensee within one year of the  
25 issuance of the license under this division, and an examination  
26 described in subdivision (a) within two years of the issuance of  
27 the license under this division.